

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	Chapter 11
)	
Squirrels Research Labs LLC, <i>et al.</i> ¹)	Case No. 21- 61491
)	
Debtors.)	(<i>Jointly Administered</i>)
)	
)	Judge Tiiara N.A. Patton
)	

**MOTION OF SQUIRRELS RESEARCH LABS LLC AND THE MIDWEST DATA
COMPANY LLC FOR ENTRY OF AN ORDER APPROVING COMPROMISE AND
SETTLEMENT WITH CINCINNATI INSURANCE COMPANY**

Squirrels Research Labs LLC (“SQRL”) and The Midwest Data Company LLC (“MWDC”, collectively with SQRL, the “Debtors”), by and through undersigned counsel, hereby submit this motion (the “Motion”) for the entry of an order, pursuant to Section 105 of Title 11 of the United States Bankruptcy Code (“Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure, to approve the settlement of a controversy between Debtors and Cincinnati Insurance Company (the “Defendant”). In support of this Motion, Debtors respectfully state the following:

JURISDICTION & VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 & 1334(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 & 1409. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

¹ The “Debtors” in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Squirrels Research Labs LLC (9310), case no. 21-61491 and The Midwest Data Company LLC (1213), case no. 21-61492.

BACKGROUND

2. On November 23, 2021 (the “Petition Date”) SQRL filed a voluntary petition for relief under Subchapter V of Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Northern District of Ohio (the “Bankruptcy Court”). SQRL’s case was jointly administered for procedural purposes with the Subchapter V case of The Midwest Data Company LLC under Case No. 21-61491.

3. As noted in SQRL’s Amended Plan of Liquidation [Docket #237] confirmed by Order of the Bankruptcy Court [Docket #269] (the “Confirmation Order”) and in MWDC’s Plan of Reorganization [Docket #170] confirmed by Order of the Bankruptcy Court [Docket #223], there was an industrial fire on July 15, 2021 (the “Fire”) at the Debtors’ 8050 Freedom Ave SW, North Canton, OH 44720 location (the “Facility”). As a result of the Fire, Debtors’ suffered damages from an interruption to business operations and damages to property of SQRL, and certain computer equipment and systems, owned by clientele of the Debtors, which were located on-site at the Facility were damaged (the “Claim”). The clientele whose property was damaged in the fire include: JS Mining and Alignment Engine. Based on its records, Debtors estimate the approximate replacement value of the damaged property owned by JS Mining to have been \$133,597.28 and the approximate replacement value of the damaged property owned by Alignment Engine to have been \$222,722.27.

4. At the time the Confirmation Order was entered, the Claim remained pending with Defendant. Pursuant to the confirmed plans, MWDC, as reorganized debtor, has the authority to resolve disputed claims without Court approval, while SQRL, as the Liquidating Debtor (as defined in the Amended Plan of Liquidation), has the authority to resolve disputed

claims or causes of action with Court approval and compliance with the Federal Rule of Bankruptcy Procedure 9019.

5. After the Confirmation Order was entered, on or about July 14, 2023, Debtors sued the Defendant in the Stark County Court of Common Pleas Case Number 2023CV01239 asserting counts for: (1) Breach of Contract, (2) Declaratory Judgment, and (3) Bad Faith Claims Handling (the “Litigation”) relating to coverage for physical damage and business interruption from the Fire at the Facility under that certain CGL and GL Policy No. EPP 057 45 07 (the “Policy”).

6. In the Litigation, Debtors asserted the Claim for failure to provide coverage or reimbursement under the Policy for damage to their own property, for equipment and systems owned by the Debtors’ clientele, and for their business interruption. Defendant asserts that the proof or documentation related to such losses was speculative and not sufficient to sustain the Claim. The Stark County Court of Common Pleas referred the matter to mediation.

7. Through efforts at mediation, the Debtors and the Defendant reached a resolution, subject to this Court’s approval, that fully and finally resolves the Litigation, the Claim, and any and all other disputes, controversies, or causes of action related to the Litigation or the Claim on the terms summarized herein and more fully set forth in the Settlement Agreement and Mutual Release attached hereto as **Exhibit A** (the “Settlement Agreement”).

8. In summary, under the Settlement Agreement, Defendant agrees to pay \$232,500 (the “Settlement Amount”) to the Debtors, representing \$175,000 for third party claims, \$40,000 for business interruption, and \$17,500 for damage to SQRL Property, and Debtors agree to dismiss all claims in the Litigation, and to the withdrawal of the lawsuit in Stark County Court of Common Pleas with prejudice. The Settlement Amount is to be paid by Defendant to Debtors’

counsel for further disbursement pursuant to an Order of this Court. Debtors propose to allocate the Settlement Amount as follows: \$175,000 to be disbursed from Debtors' counsel to JS Mining and Alignment Engine, pro rata on the basis of the replacement value of their property in Debtors' possession at the time of the Fire, and \$17,500 to the SQRL's Fund (as defined in the Amended Plan of Liquidation) representing the physical damage to SQRL's property. Finally, the \$40,000 attributable to damages for business interruption shall be paid \$15,000 to the SQRL's Fund and \$25,000 to MWDC.

9. The Debtors having analyzed and considered (a) causes of action against Defendant in the Litigation, (b) the defenses asserted by Defendant therein, (c) the Claim, and (d) the time, cost, and uncertainty of litigation, believe that the Settlement Agreement is fair and reasonable and in the best interest of the bankruptcy estate. Furthermore, the Settlement Agreement was negotiated in good faith and at arms-length, and the settlement is within the range of reasonableness considering the likely expense associated with litigation and proof of the Claim. Accordingly, Debtors asks this Court to approve the Settlement Agreement pursuant to Bankruptcy Rule 9019(a).

STATEMENT OF LAW

10. Compromises and settlements are a normal part of the bankruptcy process. *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 425 (1968) (citing *Case v. Los Angeles Lumber Prods. Co.*, 308 U.S. 106, 130 (1939)). The structure and provisions of the Bankruptcy Code promote negotiation and settlement for the benefit of creditors in accordance with "the policy of the law generally [which is] to encourage settlements." *In re Jackson Brewing Co.*, 624 F.2d 599 (5th Cir. 1980). Resolution of claims through settlement furthers the goal of bankruptcy administration to liquidate estate assets as

rapidly as possible “consistent with obtaining the best of fruitless litigation.” *In re Carla Leather, Inc.*, 44 B.R. 457, 471 (Bankr. S.D.N.Y. 1984), *aff’d*, 50 B.R. 764 (S.D.N.Y. 1985).

11. Bankruptcy Rule 9019(a) permits this Court to approve settlements. Bankruptcy Rule 9019 provides:

(a) On motion by the trustee and after notice and a hearing the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

12. Neither Bankruptcy Rule 9019 nor any section of the Bankruptcy Code explicitly sets forth the standards by which a court is to evaluate a proposed settlement for approval.

However, the standards for approval of settlements in bankruptcy cases are well established by caselaw and focus upon whether the proposed settlement is reasonable and in the best interests of creditors.

13. When reviewing settlements, this Court is not required “to decide the numerous questions of law and fact raised by [parties].” *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983), *cert. denied sub. nom. Cossoff v. Rodman*, 464 U.S. 822. “Instead, the Court will ... canvass the issues and see if the settlement falls below the lowest point in the range of reasonableness.” *In re Lawrence & Erasquin, Inc.*, 124 B.R. 37, 38 (Bankr. N.D. Ohio 1990); *see In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522-23 (S.D.N.Y. 1993); *In re Crowthers McCall Pattern, Inc.*, 120 B.R. 279, 287 (Bankr. S.D.N.Y. 1990); *Carla Leather*, 44 B.R. at 470. The assessment of a settlement only requires identification of the issues in controversy “so that the Court can make an informed decision on the reasonableness of the settlement.” *Lawrence*, 124 B.R. at 38.

14. In considering a proposed settlement, a court is guided by a lenient standard consistent with the theory that “little would be saved by the settlement process if bankruptcy courts [had to conduct] ... an exhaustive investigation and determination of the underlying claims in order to approve a settlement.” *Purofied Down Prods.*, 150 B.R. at 522-23. In *Carla Leather*, the court explained the policy underlying the abbreviated review of settlements under Rule 9019 as follows:

The very uncertainties of outcome in litigation, as well as the avoidance of wasteful litigation and expense, lay behind the Congressional infusion of a power to compromise ... This could hardly be achieved if the test on hearing for approval meant establishing success or failure to certainty.

44 B.R. at 470; *see also Purofied Down Prods.*, 150 B.R. at 522-23.

15. In evaluating a settlement’s propriety, this Court need not conduct a trial or even a “mini-trial” on the merits to actually resolve the exact factual and legal issues. Rather, this Court should simply consider whether against the background of those issues, the settlement is reasonable. *Newman v. Stein*, 464 F.2d 689, 692 (2d Cir. 1972), *cert. denied sub nom. Benson v. Newman*, 409 U.S. 1039 (1972); *see also In re Int’l Distribution Ctrs. Inc.*, 103 B.R. 420, 423 (S.D.N.Y. 1991); *In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 493, 496-97 (Bankr. S.D.N.Y. 1991) (hereinafter “*Drexel I*”). In so doing, this Court may consider the settlement in the context of its familiarity with the history of the case, the complexity of the claims alleged, the parties, and the context in which the claims and the settlement arose. *See Anderson*, 390 U.S. at 444; *Purofied Down Prods.*, 150 B.R. at 524; *Int’l Distribution Ctrs.*, 103 B.R. at 423.

16. The settlement evaluation process is not designed to substitute this Court’s judgment for that of the trustee or debtor in possession. *See Carla Leather*, 44 B.R. at 465. While this Court is not expected to “rubber stamp” the proposed settlement, *In re Ionosphere*

Clubs, Inc., 156 B.R. 414, 426 (S.D.N.Y. 1993), this Court should give considerable weight to the parties informed judgment that a compromise is fair and equitable. *See Anderson*, 390 U.S. at 444; *Int'l Distribution Ctrs.*, 103 B.R. at 423; *Drexel I*, 134 B.R. at 496; *Carla Leather*, 44 B.R. at 472.

17. This Court is bestowed with broad discretion to approve settlements that fall within the range of reasonableness. *Purofied Down Prods.*, 150 B.R. at 523; *In re Texaco, Inc.*, 84 B.R. 893, 901 (Bankr. S.D.N.Y. 1988). The proposed settlement need not be ideal, but merely above the lowest in the range of reasonableness under the circumstances. *See W.T. Grant*, 699 F.2d at 613-14; *Newman*, 464 F.2d at 693; *Purofied Down Prods.*, 150 B.R. at 523-24 (district court affirmed approval of a settlement that although not ideal, “did not fall below the lowest point in the range of reasonableness”). This concept of “range of reasonableness” recognizes “the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent to taking any litigation to completion.” *Newman*, 464 F.2d at 693.

18. In deciding whether a settlement should be approved, courts have reviewed proposed settlements based upon a consideration of some or all of the following factors:

- (i) the probability of success in litigation;
- (ii) the difficulties, if any, in collecting any judgment that might be rendered;
- (iii) the complexity of the litigation involved and the expense, inconvenience, and delay attendant to the litigation; and
- (iv) the paramount interests of the creditors with proper deference to their reasonable views.

Lawrence, 124 B.R. at 38 (citing *In re Bell & Beckwith*, 93 B.R. 569, 574 (Bankr. N.D. Ohio 1988)); *see also In re Parkview Hospital-Osteopathic Med. Ctr.*, 211 B.R. 603, 608 (Bankr. N.D. Ohio 1997).

CONSIDERATION OF THE FACTORS

19. The Settlement Agreement is fair, reasonable, and in the best interest of the estate. In comparison, without settlement, the estate would incur substantial time and expense litigating the disputed factual and legal issues raised in the Litigation. The factual issues are heavily disputed. Expert discovery and testimony would likely be required to prove the extent of damages to physical property and for business interruption. The cost and expense of the needs of continued litigation would be required to be borne by the liquidating estate in the absence of a settlement.

20. Although SQRL is confident that its Claim has merit and that it would ultimately prevail in the Litigation, SQRL believes that the time, expense, inherent risks associated with litigating its Claim, support SQRL's decision to reach the resolution described above. SQRL believes that the Settlement Agreement is reasonable and in the best interest of the estate.

CONCLUSION

WHEREFORE, SQRL respectfully asks this Court to enter the Order, attached as **Exhibit B**, granting the relief sought herein and granting such other and further relief as the Court deems appropriate.

Dated: April 9, 2024

Respectfully submitted,

/s/ Julie K. Zurn

Marc Merklin (0018195)

Julie K. Zurn (0066391)

BROUSE McDOWELL, LPA

388 S. Main Street, Suite 500

Akron, Ohio 44311

Telephone: (330) 535-5711

Facsimile: (330) 253-8601

mmerklin@brouse.com

jzurn@brouse.com

*Counsel for Squirrels Research Labs LLC
and The Midwest Data Company LLC*

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2024, a true and correct copy of the **MOTION OF SQUIRRELS RESEARCH LABS LLC AND THE MIDWEST DATA COMPANY LLC FOR ENTRY OF AN ORDER APPROVING COMPROMISE AND SETTLEMENT WITH CINCINNATI INSURANCE COMPANY**, was served via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

John C. Cannizzaro on behalf of Interested Party Instantiation LLC at John.Cannizzaro@icemiller.com, Kelli.Bates@icemiller.com

Nicholas Paul Capotosto on behalf of Debtor Squirrels Research Labs LLC at ncapotosto@brouse.com, tpalcic@brouse.com

Christopher Paul Combest on behalf of Creditor Avnet, Inc. at christopher.combest@quarles.com

Jack B. Cooper on behalf of Defendant Squirrels LLC at jcooper@milliganpusateri.com

Jack B. Cooper on behalf of Defendant Andrew Gould at jcooper@milliganpusateri.com

Jack B. Cooper on behalf of Defendant David Stanfill at jcooper@milliganpusateri.com

Jack B. Cooper on behalf of Defendant Jessica Gritzan at jcooper@milliganpusateri.com

Jack B. Cooper on behalf of Defendant Kyle Slutz at jcooper@milliganpusateri.com

Jack B. Cooper on behalf of Defendant Sidney Keith at jcooper@milliganpusateri.com

John G. Farnan on behalf of Creditor Cincinnati Insurance Company at jfarnan@westonhurd.com

Robert E. Goff, Jr. on behalf of Creditor Cincinnati Insurance Company at rgoff@westonhurd.com, cvadino@westonhurd.com

Steven Heimberger on behalf of Interested Party SCEB, LLC at sheimberger@rlblp.com, HeimbergerSR82735@notify.bestcase.com

Jeannie Kim on behalf of Interested Party Instantiation LLC at JeKim@sheppardmullin.com, dgatmen@sheppardmullin.com

Marc Merklin on behalf of Debtor Squirrels Research Labs LLC at mmerklin@brouse.com, tpalcic@brouse.com; mmiller@brouse.com

Marc Merklin on behalf of Plaintiff Squirrels Research Labs LLC at mmerklin@brouse.com, tpalcic@brouse.com; mmiller@brouse.com

David M. Neumann on behalf of Creditor Envista Forensics, LLC d/b/a AREPA at dneumann@meyersroman.com, docket@meyersroman.com; mnowak@meyersroman.com

David M. Neumann on behalf of Creditor Torea Consulting Ltd. at dneumann@meyersroman.com, docket@meyersroman.com; mnowak@meyersroman.com

Christopher Niekamp on behalf of Creditor Better PC, LLC at cniekamp@bdblaw.com

Matthew T. Schaeffer on behalf of Creditor Fleur-de-Lis Development, LLC at mschaeffer@baileycav.com, lpatterson@baileycav.com

Matthew T. Schaeffer on behalf of Defendant Fleur-de-Lis Development, LLC at mschaeffer@baileycav.com, lpatterson@baileycav.com

Matthew T. Schaeffer on behalf of Defendant Cynthia Heinz at mschaeffer@baileycav.com, lpatterson@baileycav.com

Matthew T. Schaeffer on behalf of Defendant Rocco Piacentino at mschaeffer@baileycav.com, lpatterson@baileycav.com

Paul J. Schumacher on behalf of Interested Party Ohio Power Company dba American Electric Power at pschumacher@dmclaw.com, tgross@dmclaw.com

Frederic P. Schwieg at fschwieg@schwieglaw.com, OH84@ecfcbis.com

Frederic P. Schwieg on behalf of Plaintiff Frederic P Schwieg at fschwieg@schwieglaw.com, OH84@ecfcbis.com

Frederic P. Schwieg on behalf of Trustee Frederic P. Schwieg at fschwieg@schwieglaw.com

Frederic P. Schwieg on behalf of Trustee Frederic P. Schwieg at fschwieg@schwieglaw.com, OH84@ecfcbis.com

Bryan Sisto on behalf of Creditor Carl Forsell at bsisto@fbtlaw.com

Richard J. Thomas on behalf of Creditor Premier Bank at rthomas@hendersoncovington.com, dcambotti@hendersoncovington.com

Joshua Ryan Vaughan on behalf of Creditor Ohio Bureau of Workers Compensation at jvaughan@amer-collect.com, SAllman@AMER-COLLECT.COM; HouliECF@aol.com

Julie K. Zurn on behalf of Debtor Squirrels Research Labs LLC at
jzurn@brouse.com, tpalcic@brouse.com; ckeblesh@brouse.com

Julie K. Zurn on behalf of Debtor The Midwest Data Company LLC at
jzurn@brouse.com, tpalcic@brouse.com; ckeblesh@brouse.com

Julie K. Zurn on behalf of Plaintiff Squirrels Research Labs LLC at
jzurn@brouse.com, tpalcic@brouse.com; ckeblesh@brouse.com

Kate M. Bradley ust44 on behalf of U.S. Trustee United States Trustee at
kate.m.bradley@usdoj.gov

And by regular U.S. Mail, postage prepaid, on the following:

Ohio Power Co. d/b/a AEP Ohio
Attn: Dwight Snowden
1 Riverside Plaza, 13th Floor
Columbus, OH 43215

Andrew Waters
6653 Main Street
Williamsville, NY 14221
UNDELIVERABLE

Bittware/Molex LLC
Attn: Tricia McCoy
2222 Wellington Ct
Lisle, IL 60532

CliftonLarsonAllen LLP
220 S. 6th Street, Suite 300
Minneapolis MN 55402-1436

CT Data LLC
133 River Road
Mystic, CT 06355

Donald Ruffatto
420 Fairview Ave, Apt. 107
Arcadia, CA 91007
UNDELIVERABLE

Everhart Glass Co., Inc.
Attn: Linda Monigold
207 Ninth St., SW
PO Box 20645
Canton, OH 44701

Everstream
1228 Euclid Ave #250
Cleveland, OH 44115

FedEx Corporate Services Inc.
3965 Airways Blvd., Module G, 3rd FL
Memphis, TN 38116-5017

Hailu Looyestein
Schout Coxstraat 1
5421GJ Gemert
NETHERLANDS

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

Internal Revenue Service
Insolvency Group 6
1240 E. Ninth Street, Room 493
Cleveland, OH 44199

IPS Assembly Corp.
Attn: Perry Sutariya
12077 Merriman Rd
Livonia, MI 48150

Jason Price
67 Bartram Trail
Brunswick, GA 31523

Jose A. Rubio
15925 Hopper Lane
San Diego, CA 92127

Mark D'Aria
165 Old Field Rd.
Setauket, NY 11733-1639

Metal Masters
Attn: Bret Kettlewell
125 Williams Dr
Dover, OH 44622

David Chase, et al.
c/o Michael Maranda
293 Durkee Lane
East Patchogue, NY 11772

Office of the U.S. Trustee
201 Superior Ave. East, Suite 441
H.M. Metzenbaum US Courthouse
Cleveland, OH 44114-1234

Office of U.S. Attorney
Attn: Bankruptcy Section
Carl B. Stokes U.S. Court House
801 W. Superior Avenue, Ste 400
Cleveland, OH 44113

Ohio Attorney General
Collections Enforcement Section
Attn: Bankruptcy Unit
30 E. Broad Street, 14th Floor
Columbus, OH 43215

Ohio Bureau of Workers'
Compensation
Attn: Law Section Bankruptcy Unit
PO Box 15567
Columbus, OH 43215-0567

Ohio Department of Job & Family
Svcs
Attn: Legal Support-Bankruptcy
PO Box 182830
Columbus, OH 43218-2830

Ohio Department of Taxation
Attn: Bankruptcy Division
PO Box 530
Columbus, OH 43216-0530

Phillippe Germain
102 W. Service Rd #2153466
Champlain, NY 12919

Sam Adams
3417 Bush Street
Stevens Point, WI 54481

Samtec
520 Park E. Blvd.
New Albany, IN 47150

Steven Turnshek
13 Krist Glen Dr
Swissvale, PA 15218
UNDELIVERABLE

Trevor Steinle
24106 SE 42nd St
Sammamish, WA 98029

William Paden
205 Plains Rd
Westford, VT 05494

Michael Maranda LLC
c/o Kara Dodson, Esq., Soles Law
Offices
6545 Market Avenue, N
N. Canton, OH 44721

Instantiation LLC
c/o Jason R. Schendel
Sheppard, Mullin, Richter &
Hampton LLP
4 Embarcadero Center, 17th Flr
San Francisco, CA 94111

Internal Revenue Service
Attn: Deputy Director
1240 E. Ninth Street
Cleveland, OH 44199

Michael Maranda
293 Durkee Lane
East Patchogue, NY 11772

A.G. Adjustments, Ltd.
740 Walt Whitman Rd
Melville, NY 11747

Aaron Holquin
2046 Jamison Pl
Santa Clara, CA 95051

TTI, Inc. c/o Commercial
Collections Consultants
16830 Ventura Blvd., Suite 620
Encino, CA 91436-9143

Alton Hare
1200 17th St NW
Washington, DC 20036
UNDELIVERABLE

Amanda McConnell
191 E. 28th Street
Dover, OH 44622

Aaron Reimer
PMB-AR113422
Sumas, WA 98295-9674
UNDELIVERABLE

Ben George
5464 Lake Ave
Orchard Park, NY 14127

Bradley Conn
51 Maple Avenue
Locust Valley, NY 11560

Andrew Gould
4812 Wildflower Drive
North Canton, OH 44720

Brandon Osbourne
1614 Euclid Ave., Apt. 36
Miami Beach, FL 33139-7783
UNDELIVERABLE

Brett Mashford
35 Oakmoss Dr
SPRINGFIELD LAKES, QLD 4300
AUSTRALIA

Bradon Pen
56 Varcoe Rd
Courtice, ON L1E 1S5
CANADA

Brian Klinger
4018 Shelby Row
Sugar Land, TX 77479

Carl Forsell
c/o James E.P. Sisto
Schuerger Law Group
1001 Kingsmill Parkway
Columbus, OH 43229

Brian Fiducci
24463 Norelius Ave
Round Lake, IL 60073

Cincinnati Insurance
PO Box 145496
Cincinnati, OH 45250-5496

Cincinnati Insurance
6200 S. Gilmore Rd
Fairfield, OH 45014-5141

Chad Clark
876 Jefferson St
Menasha, WI 54952

Culligan of Canton
4810 Southway St., SW
Canton, OH 44706

Daniel Hajdu
Graslaan 111
6833CG Arnhem
NETHERLANDS

Clarence Smith
3290 Double Creek Dr N., Apt 301
Plainfield, IN 46168

Darien Lyons
123 James Ter.
Rahway, NJ 07065-2409

Darry Kurpisz
14635 22nd Ave SW
Burien, WA 98166

Daniel Russo
120 High Farms Rd
Glen Head, NY 11545

David Stanfill
772 Treat Blvd.
Tallmadge, OH 44278

Dustin Hooper
20063 W. Jackson St.
Buckeye, AZ 85326-2777

David Reynolds
6046 Jerusalem Drive
Cicero, NY 13039

Fernando Molina
5275 SW 146 AVE
Miami, FL 33175

George D. Jimenez
9396 Broadland Street, NW
Massillon, OH 44646

Fabrizio Simonetti
8 Via Sant' Jacopo in Acquaviva
Livorno, LI 57127
ITALY

GS 8100, LLC
6610 Chatsworth Street, NW
Canton, OH 44718

GS1 US, Inc.
300 Princeton South Corporate Center
Ewing Township, NJ 08628

Gilbert Rodriguez
PO Box 1535
Fabens, TX 79838-1535

Henry Ryan
228 Cranbury Road
Princeton Junction, NJ 08550

Horizon Supply Group
Attn: Jeff Habbyshaw
3691 Honors Way
Howell, MI 48843

Heather Bradley
1213 N. Chapel Street
Louisville, OH 44641

Israel Garcia
615 Oak Hollow Dr
Newberg, OR 97132

James Holodnak
2910 16th Street, NW
Canton, OH 44708

Isaac Gabriel
Quarles and Brady
One Renaissance Sq
Two North Central Ave
Phoenix, AZ 85004

Jean Viljoen
5 Cape Willow
Hermanus, Western Cape
7200
SOUTH AFRICA

Jeffrey Cordell
17517 NW Ashland Drive
Portland, OR 97229

JC Pack
199 Virginia Ave., #292
San Ysidro, CA 92173-2717

Joaquim Ginesta
Emili Grahit 6, 4r 1r
17002 GIRONA, **SPAIN**

Jonathan Hulecki
4568 Church Point Place
Virginia Beach, VA 23455

Jessica Gritzan
1280 Linwood Ave SW
North Canton, OH 44720

Josh Luoni
808 8th St
Fairmont, WV 26554

Joshua Harris
209 N. Horner Blvd.
Sanford, NC 27330

Jordan Kupersmith
888 N. Quincy St
Arlington, VA 22203
UNDELIVERABLE

Kimble Companies
3596 SR 39 NW
Dover, OH 44622

Kyle Slutz
1116 W. Nimisila Road
Clinton, OH 44216

JPMorgan Chase Bank
1111 Polaris Pkwy
Columbus, OH 43240

Luco Gilardi
Ul. Slivnitsa 188
Sofia 1202
BULGARIA

Mario Fortier
10 Orchard Lane
Chelmsford, MA 01824

Kyle Tricarico
5464 Lake Ave
Orchard Park, NY 14127

Mark Veon
2547 S. 3rd Street
Milwaukee, WI 53207

Michael Dai
43174 Christy Street
Fremont, CA 94538

Marius Nastasenko
Taikos g. 148
Vilnius, Vilniaus Apskritis 5227
LITHUANIA UNDELIVERABLE

Michael Riley
2506 SW 23rd Cranbrook Dr
Boynton Beach, FL 33436

Michael Robinson
103 Hunters Ct
Forest, VA 24551

Michael Rampton
6222 12th Street, North
Arlington, VA 22205

Miguel Chacon
120 NW 6th Ave
Miami, FL 33128

Mohamed Kazem
27 Orwell Street
Potts Point
SYDNEY, NSW 2011
AUSTRALIA UNDELIVERABLE

Naoaki Kita
Kigoshimachi
Kanazawa-shi
Ishikawaken 920-0203
JAPAN UNDELIVERABLE

Nick Yarosz
3019 Ellington Dr
Summerville, SC 29485

Nicolas Rochon
4278 Beausoleil
Terrebonne QC J6V 1G1
CANADA

NJEB Partners
c/o Melissa Giberson, Vorys, Sater,
Seymour & Pease LLP
52 East Gay St.
Columbus, OH 43215 10001

One Haines Company, LLC
6610 Chatsworth Street, NW
Canton, OH 44718

One Skymax Company, LLC
6610 Chatsworth Street, NW
Canton, OH 44718

Pat Clay
72 Baker Dr
Gansevoort, NY 12831

Patrick Nadeau
311 Andrews Rd
Wolcott, CT 06716

Christophe Touzet
32 Rouillon
Saint Germain En Cogles 35133
FRANCE

Peter Ensor
Powerstown House
Clonee, Dublin
D15 YH52
IRELAND

Premier Bank
c/o Atty. Richard Thomas
6 Federal Plaza Central, Suite 1300
Youngstown, OH 44503

R. Scott Heasley
Meyers, Roman, Friedberg & Lewis
28601 Chagrin Blvd., Suite 600
Cleveland, OH 44122

Rajesh Bhakar
Sector 9d/204, 2nd Flr Akarti
Apartment
Jaipur
Rajasthan 302021
INDIA

Raymond Wodarczyk
Kinzigstra  e 28
10247 Berlin **GERMANY**
UNDELIVERABLE

Richard Bergstrom
30107 Mountain View Dr
Hayward, CA 94544

Richard Weeks
4199 Defoors Farm Dr
Powder Springs, GA 30127

Robin Wolf
Fasangasse 49
Vienna. Wien 1030 **AUSTRIA**
UNDELIVERABLE

Seth Stanfill
1515 24th Street, NW
Canton, OH 44709

Ryan Marfone
98 N. Hawkhurst Cir
The Woodlands, TX 77354

Scott Chen
4058 Case St
Elmhurst, NY 11373
UNDELIVERABLE

Thom Kuznia
5801 Drew Ave. S
Edina, MN 55410-2761

Squirrels LLC
121 Wilbur Drive NE
North Canton, OH 44720

Stefano Chiesa
41, Via III Novembre
Fucine Tn 38026
ITALY

TorEA Consulting
c/o David M. Neumann
Meyers Roman Friedberg & Lewis LPA
28601 Chagrin Blvd., Suite 600
Cleveland, OH 44122

Tim Bredemus
9757 Union Terrace Ln N
Maple Grove, MN 55369
UNDELIVERABLE

Tommy DeFreitas
14114 N. Wind Cave Ct
Conroe, TX 77384

U.S. Small Business Administration
District Counsel
1350 Euclid Ave, Suite 211
Cleveland, OH 44115

Tri Ho
1180 N. Cherry Way
Anaheim, CA 92801

Troy Keplinger
1730 E. Park St
Enid, OK 73701

Robert Renna
48 Samantha Dr
Morganville, NJ 07751-4006

Uline
12575 Uline Dr
Pleasant Prairie, WI 53138

Marco Mendoza
29407 Pyrite St
Menifee, CA 92584

Richard Hall
61 Falkirk Avenue
Wellington, WGN 6022
NEW ZEALAND

Welbour Espartero
46 6th Ave NE
Swift Current, SK S9H 2L7
CANADA

Aditya Chauhan
510 Roosevelt St.
Roselle Park, NJ 07204-1512

Andrew Wolf
1960 SW Old Sheridan Rd
McMinnville, OR 97128-8686

Robert Oxsen
12795 Lowhills Rd
Nevada City, CA 95959-9074

Aaron Strating
411B Vancouver St
Victoria, BC V8v 3t4
CANADA

Richard Ramazinski
1000 Flower Drive, STE LKS 2035
Glendale, CA 91201

Arran Gracie
221 Southwest Alder Street
Portland, OR 97204
UNDELIVERABLE

Fabian Delmotte
Rue de Favence 29
Nandrin, -- 4550
BELGUIM
UNDELIVERABLE

Matthew Peterson
3390 Stratford Rd NE
Unit 516
Atlanta, GA 30326
UNDELIVERABLE

James Soldi
2208B Clark Ln
Redondo Beach, CA 90278-4304

Barry Gluntz
2350 Winfield Ave
Rocky River, OH 44116

Jack Cooper
4684 Douglas Circle NW
Canton, OH 44735

Lance Colton
301-10140 150 St NW
Edmonton, AB T5P 1P1
CANADA

David Burlington
38 Bryant St APT 804
San Francisco, CA 94105-6119
UNDELIVERABLE

Pascal Peters
P.H.J.J. Peters Holding B.V.
Parklaan 6
Oss, Noord Brabant 5345 BV
NETHERLANDS

Jason Palmer
6559 Argonne Blvd.
New Orleans, LA 70124

Matteo Trinca
Lania Geo Ltd.
10 Zahesi Territory Svimon
Shotadze Tbilisi, T'bilisi 0178
GEORGIA
UNDELIVERABLE

Dean Givens
170 Glad Spring Dr.
Lexington, SC 29072

Haley Williams
518 Washington St.
Santa Cruz, CA 95060
UNDELIVERABLE

Bill Gallagher
591 Lantern Way
Aurora, OH 44202

Everett Fominyen
6733 N. 105th Ave.
Omaha, NE 68122

Jeffrey Willis
987 S. High Street
Columbus, OH 43206

Enrique Espinosa
4009 Old Bridgeview Ln
Charleston, SC 29403

Jason Rettburg
670 Robinhood Dr.
Aurora, OH 44202

Tim Robinson
2376 Burg Street
Granville, OH 43023

Gail O'Connell
8960 Ringview Dr.
Mechanicsville, VA 23116

Sidney Keith
8127 Larkspur Ave NW
North Canton, OH 44720

Elloit Boutin
9400 E. Lincoln Street Apartments,
Unit 409
Wichita, Kansas 67207

Justin O'Connell
15712 Whirlwind Dr.
Midlothian, VA 23112

Envista Forensics LLC, dba AREPA
c/o David M. Neumann
Meyers Roman Friedberg & Lewis LPA
28601 Chagrin Blvd., Suite 600
Cleveland, OH 44122

Gabriel and Andrew Boutin
48 Cascade St.
Essex Junction, VT 05452-0545

Tulip
5464 Lake Ave
Orchard Park, NY 14127

Gregory Almedia
240 Old Foamy Rd.
Cleburne, TX 76033

Jon Bulger
5169 Freeman Rd.
Orchard Park, NY 14127

William Sweeney
10 Westedge St., Unit 725
Charleston, SC 29403

Squirrels 401(k) & Profit-Sharing Plan
c/o Plan Sponsor, Squirrels, LLC
121 Wilbur Drive, NE
North Canton, OH 44720

Stephen Allison
18 Monument Dr.
Stafford, VA 22554

ProTech Security
PO Box 35034
Canton, OH 44735

SCEB LLC
Attn: Stephen Allison
18 Monument Dr.
Stafford, VA 22554

Avnet Inc.
Attn: Dennis Losik
5400 Prairie Stone Pkwy
Hoffman Estates, IL 60192

Avnet Inc.
c/o Michael Walker, General Counsel
2211 S. 47th Street
Phoenix, AZ 85034

Avnet Inc.
5400 Prairie Stone Pkwy
Hoffman Estates, IL 60192

Jeff Schugart
13918 Bond Street
Overland Park, KS 66221

SF Mining LLC
12795 Lowhills Rd.
Nevada City, CA 95959

Instantiation, LLC
Attn: Sam Cassatt
434 Dorado Beach E
Dorado, **PUERTA RICO** 00646

Alignment Engine, Inc
8050 Freedom Ave NW, Unit B
North Canton, Ohio 44720

JS Mining
c/o Jeff Schugart
13918 Bond Street
Overland Park, Kansas 66221

And the following by email:

Artem Pylypchuk at articicejuice@gmail.com
Jose Nunez at admin@croxmoon.com
Michael Erceg at michael.erceg@gmail.com
Spencer Gabriel Singh at spencersingh96@gmail.com
Todd Dallimore at tdallimore@start.ca
Yannick Vergult at yannick.vergult@gmail.com
Henrik Gustafsson at henrik@virtualduck.net
Ruben Sousa at sousa.ruben2@gmail.com
Robin Wolf at robin.90@hotmail.de
Donald Ruffatto at Druffatto@gmail.com
Jordan Kupersmith at jordankupersmith@gmail.com
Scott Chen at madam.ng16@gmail.com
Mohamed Kazem at nabilkazem@mail.com
Tim Bredemus at tcbred@gmail.com
David Burlington at dburlington@yahoo.com

/s/ Julie K. Zurn

Julie K. Zurn (0066391)
Counsel for Squirrels Research Labs LLC
and The Midwest Data Company LLC

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